

**PUBLIC NOTIFICATION REQUIREMENTS FOR COMBINED SEWER OVERFLOWS
TO THE GREAT LAKES BASIN – 40 CFR PARTS 122 AND 123**

❖ **Implementation Timeframes:**

- The Public Notification Plan is due by August 7, 2018.
 - An extension may be granted by IDEM due to economic hardship.
 - The Public Notification provisions are to be incorporated into permits when permits are issued or reissued after the effectiveness of the rule.

❖ **Applicability:**

- Applies to permittees with authorized combined sewer overflows (CSO) that discharge into the Great Lakes Basin.

❖ **Authorization:**

- Section 425 of Consolidated Appropriations Act of 2016
- Public Law 114-113
- FWPCA 33 U.S.C. 1251

❖ **Implementation into NPDES Permit Program:**

- Requires a new rule found at 40 CFR 122.21(j)(8)(iii)
 - Requires NPDES permit applications to include submittal of the Public Notification Plan for Great Lakes Basin CSO permittees.
- Requires new NPDES Permit Standard Conditions found at 40 CFR 122.42(f)
 - Standard Conditions to be added to Great Lakes Basin CSO permittees to ensure Public Notification requirements are incorporated into NPDES Permits.
 - Implementation of Public Notification requirements of 40 CFR 122.38(a)
 - Specify information that must be included on CSO discharge signage
 - Specify discharge points and public access areas where signage is required
 - Specify the timing and minimum information for providing initial and supplemental notification to public health departments and other potentially impacted entities and the public
 - Specify the location of CSO discharges that must be monitored for volume, discharge duration, and the location of those CSO discharges that volume and duration are estimated
 - Require a submittal of an annual notice per 122.38(b)
 - Specify protocols for making annual notice available to the public
- Update to 40 CFR 123.23(47) – State Program Requirements
 - This State Program Requirement is being added to include provisions of 40 CFR 122.38 for Great Lakes States

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❖ **Enforceability Issues:**

- 122.38(a) and (b) are enforceable outside of inclusion in the NPDES Permit
 - This includes signage and the annual notice
 - However, the details and content of these documents are not enforceable under 122.38(c) unless incorporated into the NPDES permit.
 - Once incorporated into a NPDES permit, the plan may be changed based on needed adaptations, etc.

❖ **40 CFR 122.38 – Public Notification Requirements for CSO Discharges to the Great Lakes Basin**

- (a) – all permittees authorized to discharge a CSO to the Great Lakes Basin must provide public notification of CSO discharges by November 7, 2018. Public Notice consists of:
 - (1) **Signage**
 - At CSO outfalls, unless deemed infeasible, and all public access areas
 - ◆ Sign shall include:
 - Name of permittee
 - Description of discharge
 - Notice that sewage may be present in water
 - Contact information
 - Telephone number
 - CSO Outfall Number
 - NPDES Permit Number
 - ◆ Permittee is to conduct periodic maintenance of signs to ensure they are visible, legible, and correct
 - ◆ If a permittee has installed a sign before August 7, 2018, and is consistent with State requirements, then the sign does not need to meet the new requirements until the sign needs replaced.
 - (2) **Notification of Local Health Departments and other potentially affected public entities**
 - As soon as possible, but no later than four (4) hours after becoming aware by monitoring, modeling, or other means that a CSO discharge occurred or will occur, the permittee shall provide initial notice to the local health department and any impacted public entities (example: municipalities, drinking water suppliers, state and local parks, Indian Tribes).
 - ◆ (i) The **Initial Public Notice** shall include:
 - The impacted waterbody
 - Location of discharge and potentially impacted public access areas
 - Where CSOs from the same system discharge at multiple locations during the same precipitation event, the permittee may provide a

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description of the area in the waterbody where discharges are occurring and identify public access areas potentially impacted, and then the permittee would not be obligated to specify each CSO discharge location.

- Date, time, discharge started or when the permittee become aware of discharge or expected a discharge to occur
- Whether, at the time of notification, the discharge is still occurring or has ended
- Point of contact for the permittee
- ◆ (ii) **Supplemental Public Notice**
 - Within seven (7) days of becoming aware of discharge, the permittee shall provide supplemental information to the public health department and other affected public entities and Indian Tribes that received the Initial Notice, unless this information has already been provided. The following information is required:
 - Measured or estimated volume of discharge
 - Where CSOs from the same system discharge at multiple locations during the same precipitation event, the permittee may provide a description of the area in the waterbody where discharges are occurring and identify public access areas potentially impacted, and then the permittee would not be obligated to specify each CSO discharge location.
 - Time the discharge ended

➤ (3) **Notification to the public**

- (i) Notification to the public shall be made as soon as possible, but no later than four (4) hours after becoming aware of CSO discharge. If physical action is necessary to limit the public’s health impact of the CSO event, and if all staff are involved in these actions, then the four (4) hour window will start upon completion of that action.
 - ◆ Public notification shall be:
 - By electronic means
 - Texting
 - Email
 - Social media
 - Posting to public websites
 - If appropriate, TV, radio, newspaper
 - ◆ (ii) Public Notice shall include:
 - Impacted waterbody

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- Location of discharge
- Identify public access areas
 - Where CSOs from the same system discharge at multiple locations during the same precipitation event, the permittee may provide a description of the area in the waterbody where discharges are occurring and identify public access areas potentially impacted, and then the permittee would not be obligated to specify each CSO discharge location.
- Date and time started CSO event
- Specify whether discharge is continuing or has ended, with time/date it ended, if applicable
- ◆ (iii) Supplemental public notice:
 - Within seven (7) days after becoming aware that a CSO event has ended the permittee shall update the electronic notice with the following info: (unless already provided)
 - Measured or estimated volume of CSO discharge
 - When multiple locations discharge during the same precipitation event the permittee may provide an estimate of the cumulative discharge volume to a specific waterbody.
 - Approximate time the discharge ended.

❖ (b) **Annual Notice**

- Starting on February 7, 2019, the annual notice requirements begin to be applicable.

By May 1, of each year (or another date specified by IDEM) any permittee authorized to discharge CSOs to the Great Lakes Basin must make available to the public an annual notice describing CSO discharges (suggested on permittee’s website). The location of where the Notice will be made available shall be provided to IDEM and EPA (email: NPDES_CS0@epa.gov). Satellite collection systems with CSOs shall send the annual notice to the POTW that receives its sanitary wastewater.

- The Annual Notice shall contain:
 - Description of locations of CSOs
 - Receiving water
 - Any treatment provided
 - Date, Location, and approximate duration, measured/estimated volume, and cause for each wet weather event that occurred in the past year
 - If multiple discharges to given waterbody occurs that permittee may provide an estimate of the cumulative volume discharged to each waterbody

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- Date, location, duration, volume and cause of each dry weather CSO discharge in past calendar year
- Summary of monitoring data for CSO discharges
- Description of any public access areas potentially impacted by CSOs
- Representative precipitation data in total inches (closest 0.1 inches) that resulted in a CSO discharge
- Permittee contact information, if not listed elsewhere on website
- Concise summary of implementation of 9 minimum controls and LTCP implementation status
 - Include key milestones remaining
 - Description of annual number of CSO discharges anticipated after LTCP fully implemented

❖ **(c) Public Notification Plan**

- Plan developed to ensure public is notified of CSO events/impacts
 - The permittee must provide notice of the plan on the permittee’s website and update public periodically on how to look at the plan (inserts in billings, etc.)
 - The Plan must be submitted to IDEM by August 7, 2018.
 - The Plan must be submitted as part of subsequent NPDES permit application(s) (see 40 CFR 122.21(j)(8)(iii))
 - Plan must include:
 - ◆ Location of signs for CSO points
 - Where a sign was not provided – an explanation of why it is was not feasible to provide.
 - ◆ Describe message on signs
 - ◆ Describe the protocols for maintaining signs
 - ◆ Identification and contact info for municipalities, public water suppliers, public parks with water access, Indian Tribes, and other identified sensitive areas per the LTCP that may be impacted
 - ◆ Summarize significant comments/recommendations raised by local public health departments, impacted public entities, and Indian Tribes
 - ◆ Describe protocols for initial and supplemental notice to public health department and other public entities
 - ◆ Describe protocols for initial and supplemental notice to the public and explanation if the notice will be delayed due to physical action needed to minimize public health impacts
 - ◆ Describe for each CSO point, how volume, duration of CSO events will be measured/estimated

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- If models are used, a summary of the model must be provided plus is calibration
 - Facilities with populations over 75,000 persons must assess whether the model needs to be re-calibrated at least every 5 years
 - If needed, the model must be re-calibrated
 - ◆ Describe protocols for making annual notice available to the public
 - ◆ For NPDES permit renewals, describe any significant modifications to the Plan, if any
- ❖ **(d) Public Health Department and Public Entities Outreach**
- Prior to submitting the public notification plan, or resubmitting the permittee must:
 - Seek input from the local health department to:
 - Develop recommended protocols for CSO notification to the public health department and the public
 - Seek advice from public health department on identification of potentially impacted public access areas
 - Seek Input from other public entities and Tribes that may be impacted
 - All recommendations must be considered in developing protocols
- ❖ **(e) Extensions of compliance dates**
- IDEM may extend compliance date if it is determined compliance causes an undue economic hardship
 - When IDEM does extend a compliance date IDEM must:
 - Notify EPA Region 5
 - Post extension on IDEM’s website until the extension period is over